

IN THE UNITED STATES COURT  
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSÉ A. VIERA-RIVERA,

Defendant.

CRIM. NO.: 94-391(SCC)

**ORDER**

On April 23, 2025, Magistrate Judge Héctor L. Ramos-Vega issued a comprehensive Report and Recommendation (“R&R”) regarding Mr. José A. Viera-Rivera’s (“Mr. Viera-Rivera”) motion for compassionate release (the “Petition”) at Docket No. 140. *See* Docket No. 152. There, he recommends that the Court grant Mr. Viera-Rivera’s Petition.

Only Mr. Viera-Rivera objected to the R&R. *See* Docket No. 154. The Government did not. So, since the Government failed to do so, it has waived its right to review before this Court. *See United States v. Díaz-Rosado*, 857 F.3d 89, 94 (1st Cir. 2017). Mr. Viera-Rivera advances one objection and it pertains to the exhaustion of administrative remedies requirement. Importantly, the Court notes that, in the R&R, the Magistrate Judge determined that, even though “Mr. Viera-[Rivera] has

not shown that he fully exhausted administrative rights[.]” the Government waived the failure to exhaust administrative remedies argument as a defense because it never raised it in its opposition to the Petition. *See* Docket No. 152, pgs. 10-11. Notwithstanding that ruling, Mr. Viera-Rivera opted to clarify that he did, in fact, exhaust his administrative remedies. *See* Docket No. 154, pgs. 1-2.

Therefore, bearing in mind this clarification, but, more fundamentally, after performing a *de novo* review of the totality of the record, the Court **ADOPTS** the R&R at Docket No. 140 in its entirety and therefore **GRANTS** the Petition at Docket No. 140. A resentencing hearing will be set by separate order.

IT IS SO ORDERED.

In San Juan, Puerto Rico, this 14th day of July 2025.

S/ SILVIA CARREÑO-COLL  
UNITED STATES DISTRICT COURT JUDGE